

118TH CONGRESS
1ST SESSION

S. 2616

To provide for a right of action against Federal employees for violations of rights secured by the First Amendment to the Constitution of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

Mr. SCHMITT introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for a right of action against Federal employees for violations of rights secured by the First Amendment to the Constitution of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Censorship Account-
5 ability Act”.

1 **SEC. 2. RIGHT OF ACTION AGAINST FEDERAL EMPLOYEES**
2 **FOR VIOLATIONS OF RIGHTS SECURED BY**
3 **THE FIRST AMENDMENT TO THE CONSTITU-**
4 **TION OF THE UNITED STATES.**

5 (a) DEFINITION.—In this section, the term “Federal
6 employee” means an individual, other than the President
7 or the Vice President, who occupies a position in any agen-
8 cy or instrumentality in the executive branch of the Fed-
9 eral Government, including in any independent agency in
10 that branch.

11 (b) LIABILITY.—

12 (1) IN GENERAL.—A Federal employee who,
13 under color of any statute, ordinance, regulation,
14 custom, or usage, of the United States, subjects, or
15 causes to be subjected, any citizen of the United
16 States or any person within the jurisdiction thereof
17 to the deprivation of any rights, privileges, or immu-
18 nities secured by the First Amendment to the Con-
19 stitution of the United States, shall be liable to the
20 party injured in an action at law, suit in equity, or
21 other proper proceeding for redress.

22 (2) EXCEPTION.—Under paragraph (1), a Fed-
23 eral employee may not bring suit against the agency
24 or instrumentality employing the Federal employee,
25 or against the Federal Government, for conduct that
26 is within the scope of the employment relationship.

1 (c) ATTORNEY'S FEES.—In any action or proceeding
2 to enforce this section, the court, in the discretion of the
3 court, may allow the prevailing party, other than the
4 United States, a reasonable attorney's fee as part of the
5 costs.

6 (d) SEVERABILITY.—If any provision of this section,
7 or the application of a provision of this section to any per-
8 son or circumstance, is held to be unconstitutional, the
9 remainder of this section, and the application of the provi-
10 sions of this section to any person or circumstance, shall
11 not be affected by that holding.

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